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 and the Proposed Class*

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

**DONALD WORTMAN, WILLIAM  
 ADAMS, MARGARET GARCIA,**  
 individually and on behalf of all others  
 similarly situated,

Plaintiffs,

vs.

**AIR NEW ZEALAND, ALL NIPPON  
 AIRWAYS, CATHAY PACIFIC  
 AIRWAYS, CHINA AIRLINES, EVA  
 AIRWAYS, JAPAN AIRLINES  
 INTERNATIONAL, MALAYSIA  
 AIRLINES, NORTHWEST AIRLINES,  
 QANTAS AIRWAYS, SINGAPORE  
 AIRLINES, THAI AIRWAYS,  
 UNITED AIRLINES,**

Defendants

**Case No. 07-cv-05634-CRB**

**MDL No. 1913**

**PLAINTIFF WORTMAN, ADAMS AND  
 GARCIA'S *EX PARTE* MISCELLANEOUS  
 ADMINISTRATIVE REQUEST FOR  
 ISSUANCE OF LETTERS ROGATORY**

**PLAINTIFF WORTMAN, ADAMS AND GARCIA'S *EX PARTE* MISCELLANEOUS  
 ADMINISTRATIVE REQUEST FOR ISSUANCE OF LETTERS ROGATORY  
 Case No. 07-cv-05634-CRB; MDL No. 1913**

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PLEASE TAKE NOTICE that for the purpose of effecting service of process in Australia, Malaysia, New Zealand, Singapore, Taiwan, and Thailand of the operative complaint in the above-captioned Wortman, et al. action on named foreign Defendants Air New Zealand, China Airlines, Eva Airways, Malaysia Airlines, Qantas Airways, Singapore Airlines and Thai Airways (collectively, "Foreign Defendants") via Letters Rogatory, Plaintiffs Wortman, Adams and Garcia ("Plaintiffs") hereby respectfully request: (1) an Order granting Plaintiffs' request for the issuance of Letters Rogatory for the Foreign Defendants; (2) the issuance of Letters Rogatory for the Foreign Defendants; and (3) certified copies of all documents to be served, specifically: (i) Complaint in *Wortman, et al v. Air New Zealand, et al.*, Case No. 07-05634-CRB; (ii) Civil Cover Sheet; (iii) Summons in a Civil Case; (iv) Plaintiff Wortman, Adams and Garcia's Notice of Placeholder Complaint and Summons with exhibit A, the redacted complaint *Wortman, et al v. Air New Zealand, et al.*, Case No. 07-05634-CRB, and exhibit B, the redacted Summons in a Civil Case; (v) Notice of Assignment of Case to a United States Magistrate Judge for Trial; (vi) Order Setting Initial Case Management Conference and ADR Deadlines; (vii) ECF Registration Information Handout; (viii) Standing Order re Case Management Conference; (ix) Order Granting Administrative Motion to Relate Cases; and (x) Dispute Resolution Procedures in the Northern District of California Handbook (ADR Handbook).

Plaintiffs bring this Ex Parte Miscellaneous Administrative Request pursuant to Civil Local Rule 7-11, which permits a party to proceed ex parte where a party may require a Court order with respect to miscellaneous administrative matters, not otherwise governed by a federal statute, a federal or local rule, or a standing order of the assigned judge. Plaintiffs base this request upon this Ex Parte Miscellaneous Administrative Request and Memorandum of Points and Authorities; the Letters Rogatory and [Proposed] Order, and the Declaration of Steven N. Williams in Support thereof ("Williams Decl."), filed herewith; and all the papers and pleadings on file in this action.

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**PLAINTIFF WORTMAN, ADAMS AND GARCIA'S EX PARTE MISCELLANEOUS ADMINISTRATIVE REQUEST FOR ISSUANCE OF LETTERS ROGATORY**  
**Case No. 07-cv-05634-CRB; MDL No. 1913**

**MEMORANDUM OF POINTS AND AUTHORITIES**

Plaintiffs respectfully request that the Court issue two Letters Rogatory (three copies of each Letter, as requested by Plaintiffs' international process server, APS International, Ltd. ("APS"), for a total of twenty-one Letters), submitted herewith, so that Plaintiffs may effect service of process in on the seven Foreign Defendants, Air New Zealand, China Airlines, Eva Airways, Malaysia Airlines, Qantas Airways, Singapore Airlines and Thai Airways, named in this action. Plaintiffs are advised that each Letter Rogatory must bear the Judge's original handwritten signature and the Court's seal. Williams Decl. ¶ 9.

In addition, Plaintiffs request that the Court provide certified copies of all documents required for service. In accordance with the requirements of service in Australia, Malaysia, New Zealand, Singapore, Taiwan and Thailand, Plaintiffs must serve certified copies of all documents. Williams Decl. ¶ 10. Civil Local Rule 4-2 requires Plaintiff to serve the following documents: (i) Complaint in *Wortman, et al v. Air New Zealand, et al.*, No. 07-05634-CRB; (ii) Civil Cover Sheet; (iii) Summons in a Civil Case; (iv) Notice of Assignment of Case to a United States Magistrate Judge for Trial; (v) Order Setting Initial Case Management Conference and ADR Deadlines; (vi) ECF Registration Information Handout; (vii) Standing Order re Case Management Conference; (viii) Order Granting Administrative Motion to Relate Cases.

**I. Plaintiff Must Serve The Foreign Defendants Via Letters Rogatory.**

Plaintiffs filed their Complaint on November 6, 2007 naming 12 companies as Defendants. Of the defendants named in the complaint, there are 2 domestic Defendants and 11 foreign Defendants (one in Australia, one in Malaysia, one in New Zealand, one in Singapore, two in Taiwan, and one in Thailand). To date, both of the domestic Defendants have been served. Of the foreign Defendants, the two defendants based in Japan (All Nippon Airways and Japan Airlines International) and the defendant based in Hong Kong (Cathay Pacific Airways) are in the process of being served pursuant to The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters ("The Hague Convention"), 20 U.S.T. 361, T.I.A.S. No. 6638, 658 U.N.T.S. 163. Australia, Malaysia, New

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**PLAINTIFF WORTMAN, ADAMS AND GARCIA'S *EX PARTE* MISCELLANEOUS  
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Zealand, Singapore, Taiwan and Thailand, however, are not signatories to The Hague Convention; these Defendants must be served in their respective countries by Letters Rogatory. 28 U.S.C. §1781(a)(2); Fed. R. Civ. Proc. 4(f)(2)(B). Plaintiffs have retained the services of APS, a company that specializes in foreign service of process, to assist in serving the Foreign Defendants in Australia, Malaysia, New Zealand, Singapore, Taiwan, and Thailand by Letters Rogatory. Williams Decl. ¶ 2. APS has advised Plaintiffs that the Letters Rogatory is the only method of service recognized by the United States and Australia, Malaysia, New Zealand, Singapore, Taiwan, and Thailand courts. Williams Decl., Exs. A-F.

## **II. The United States Department of State Will Not Accept Uncertified Copies of Documents.**

APS also advised that service by Letters Rogatory must follow a specific format and documents must go through diplomatic channels. The United States Department of State, which reviews and processes the documents for service abroad pursuant to Letters Rogatory, will not accept copies of documents that are uncertified. Williams Decl. ¶ 10.

### **CONCLUSION**

For the foregoing reasons, Plaintiffs respectfully request that this Court enter the Proposed Order, submitted herewith, granting Plaintiffs' request for the issuance of Letters Rogatory for Foreign Defendants Air New Zealand, China Airlines, Eva Airways, Malaysia Airlines, Qantas Airways, Singapore Airlines, and Thai Airways, and issue the Letters Rogatory, submitted herewith for the Foreign Defendants (three original signed and Court-sealed Letters for each Defendant).

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1 Dated: January 28, 2008

Respectfully Submitted,

2 By: /s/ Steven N. Williams

3 Joseph W. Cotchett  
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